

MINUTES OF THE GILBERT TOWN COUNCIL IN REGULAR MEETING OF THURSDAY, SEPTEMBER 21, 2017 AT 6:30 PM, MUNICIPAL CENTER, COUNCIL CHAMBERS, 50 E CIVIC CENTER DRIVE, GILBERT, ARIZONA

COUNCIL PRESENT: Mayor Jenn Daniels, Vice Mayor Victor Petersen, Councilmembers Scott Anderson, Eddie Cook, Brigitte Peterson, and Jared Taylor

COUNCIL ABSENT: Councilmember Jordan Ray

STAFF PRESENT: Town Manager Patrick Banger, Deputy Town Clerk Kris Kingsmore, Interim Town Attorney Andrew McGuire, Assistant Town Attorney Chris W. Payne, Community Resources Program Supervisor Melanie Dykstra, and Development Services Director Kyle Mieras

AGENDA ITEM

CALL TO ORDER

Mayor Jenn Daniels called the meeting to order at 6:31 p.m.

PRESENTATION OF STUDENT CITIZEN OF THE MONTH AWARD

Mayor Jenn Daniels and the Council presented Student Citizen of the Month Awards for August to:

Keion Fox, Alexia Ochoa, Jack Whitney, Gracie Hacker, Ella Rutherford, Eloise Fullmer, Blake Atchley, Presley Eaves, Shiloh Rosado, Traxxton Kempton, Jonathan Limas, Elizabeth Brown, Emma Joan Wiott, Liberty Hales, Brooklyn Allison, Hailey Miles, Derek Lessard, Nathan Hill, Kaitlyn Rossi, Rigby Garrett, Hayden Clegg, Ashley Partusch, Alexander Poulson, Nickolas Ramirez, Ryan Snowball, Herbert Michael Lawton, Kostner Deacy, Ryland Meadows, Carson Lewis, Jonathan Jones, Aspen Hickman, Madison Noyce, Matthew Glover, Marissa Segura, Kaya Abeyta, Eric Elizondo, Alexandra Kahn, Eliza Dysart, Lois Zozobrado, Arwen Plummer, and Karis Houser.

INVOCATION AND PLEDGE OF ALLEGIANCE

Councilmember Brigitte Peterson introduced the scouts in attendance who led the Pledge of Allegiance and introduced themselves. Pastor Thor Strandholt of Valor Christian Center gave the invocation.

ROLL CALL

Deputy Town Clerk Kris Kingsmore called roll and declared a quorum present.

PRESENTATIONS; PROCLAMATIONS

1. PROCLAMATION - Proclamation declaring September as Gilbert Feeding Families and Hunger Action Month.

Councilmember Brigitte Peterson read a proclamation declaring September as Gilbert Feeding Families and Hunger Action Month. She presented the proclamation to Dave Richins, Rustyn Sherer, Michael Soelberg, Tyson Nansel, and Melissa Forrester of the United Food Bank. Members of the Gilbert Feeding Families Committee were also present to accept the proclamation.

COMMUNICATIONS FROM CITIZENS

Ed Farmer, not a Gilbert resident, requested that Council pull Item 8B from the agenda until further discussion could take place. He identified himself as the Regional Manager for Big League Dreams and said there was no legal justification for cancelling their licensing and maintenance agreements. He said the facility posed no health or safety issues and its closing caused a layoff of nearly 90 employees. He asked Council to be responsive and to reconsider.

CONSENT CALENDAR

A MOTION was made by Vice Mayor Victor Petersen, seconded by Councilmember Eddie Cook, to approve Consent Items 2, 3, 4, 6, 7, 8, 8A, 8B, 9, 10, 11, 12, 13, 15, 15A, 16, 17, 18, 19, 20, and 22; and remove Items 5, 14, and 21 from the Consent Calendar. *Motion carried 6-0.*

2. ANNEXATION A17-01 – consider adoption of an Ordinance deannexing 0.1633 acres of right-of-way north of Ocotillo Road just west of Power Road contingent upon annexation by the Town of Queen Creek and approval by the Maricopa County Board of Supervisors.

This item was approved with the Consent Calendar vote. *Ordinance No. 2626 was adopted.*

3. INTERGOVERNMENTAL AGREEMENT – consider approval of Gilbert's cost share payment pursuant to Contract No. 2004-7010-0078 with the City of Mesa and the Town of Queen Creek for a Guaranteed Maximum Price No. 1 Construction Manager at Risk Agreement between the City of Mesa and McCarthy Building Companies in an amount not to exceed \$15,495,334 for construction services related to the Greenfield Water Reclamation Plant Phase III, Project No. WW075, and associated rehabilitation and repair projects, Project No. WW114, and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

4. REIMBURSEMENT AGREEMENT – consider adoption of a Resolution approving a Reimbursement Agreement with BGV - Gilbert & Vaughn, LLC for improvements to Vaughn Avenue drainage and utility improvements in Bricomp Boulevard. The Town will reimburse BGV - Gilbert & Vaughn, LLC based on actual costs incurred in an amount equal to 43% of the actual construction costs for these improvements and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote. *Resolution No. 3922 was adopted.*

5. DEVELOPMENT AGREEMENT – consider:

a) adoption of a Resolution approving Amendment No. 1 to the Development Reimbursement Agreement with Orbital ATK, Inc. to correct the definition of Effective Date and Retained Jobs and authorize the Mayor to execute the required documents; and

b) approval of a Contingency Transfer from the Economic Development Reserve Fund in an amount not to exceed \$1,200,000 over the term of the Development Agreement for the reimbursement of Job Retention, Job Creation and Training as approved in the Orbital ATK Development Agreement dated February 18, 2016.

Vice Mayor Victor Petersen stated there was public concern that the addendum to the agenda was not noticed 24 hours before the Council meeting. Deputy Town Clerk Kris Kingsmore affirmed that the addendum was noticed more than 24 hours before the meeting.

Vice Mayor Victor Petersen said he was not in support of Item 5, stating there was ambiguity that remained in the contract. He said that changing the effective date would allow jobs to be claimed as “newly-created” that were actually filled before the agreement took place.

Councilmember Jared Taylor said Item 5 was a “buying jobs type of agreement”, stating it was job creation, not wealth creation. He said in the future he hoped for opportunities that would create true net increase rather than just moving money around.

A MOTION was made by Councilmember Eddie Cook, seconded by Councilmember Brigitte Peterson, to approve Item 5. Motion carried 4-2 with Vice Mayor Victor Petersen and Councilmember Jared Taylor casting the dissenting votes. *Resolution No. 3923 was adopted.*

6. AGREEMENT –consider and authorize the Mayor to execute the required documents:

a) adoption of a Resolution approving Amendment No. 6 to Lease Agreement No. 2011-4108-0105 with the Fort McDowell Yavapai Nation in an amount not to exceed \$278,660 for the use and storage of 13,933 acre feet of water; and

b) the delivery and storage of 13,933 acre feet of water by Central Arizona Water Conservation District in an amount not to exceed \$2,229,280.

This item was approved with the Consent Calendar vote. *Resolution No. 3924 was adopted.*

7. AGREEMENT –consider and authorize the Mayor to execute the required documents:

a) adoption of a Resolution approving Amendment No. 7 to Lease Agreement No. 2011-4108-0063 with the San Carlos Apache Tribe in an amount not to exceed \$400,000 for the use and storage of 20,000 acre feet of water; and

b) the delivery and storage of 20,000 acre feet of water by Central Arizona Water Conservation District in an amount not to exceed \$3,200,000.

This item was approved with the Consent Calendar vote. *Resolution No. 3925 was adopted.*

8. AGREEMENT – consider approval of Agreement for Services Contract No. 2017-2105-0586 with Crandall Arambula in an amount not to exceed \$350,000 to deliver the 2018 Heritage District Redevelopment Plan and Master Plan and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

8A. CONTRACT – consider approval of Employment Agreement No. 2018-1004-0102 with Christopher W. Payne for Town Attorney and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

8B. CONTRACT – consider authorizing termination of:

a) License Agreement Contract No. 2005-5002-0211 with Big League Dreams USA, LLC; and

b) Maintenance and Operations Agreement Contract No. 2005-5002-0345 with Big League Dreams Gilbert, LLC.

This item was approved with the Consent Calendar vote.

9. CONTRACT – consider approval of Construction Management Services Contract No. 2018-2106-0068 with Wood Patel in an amount not to exceed \$273,865 for the Stonebridge Lakes Estates Reconstruction Project, Project No. ST170, and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

10. CONTRACT – consider approval of Project Management/Construction Management Services Contract No. 2018-2106-0072 with HDR Inc. in an amount not to exceed \$120,000 for the Recker Road 660' north of Ray Road to 1,320' Improvement Project, Project No. ST096, and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

11. CONTRACT – consider approval of expenditures under Contract No. 2017-1103-0617 with San Tan Ford in an amount not to exceed \$403,455 including taxes for the purchase of sixteen (16) vehicles for Parks and Recreation, Facilities Maintenance, Engineering, Streets, Water and Wastewater, and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

12. CONTRACT – consider approval and authorize the Mayor to execute the required documents for:

a) Cooperative Purchase Agreement Job Order Contract No. 2018-2106-0014 with Hunter Contracting Co. for the installation of wet utility pipeline projects utilizing the City of Peoria Cooperative Purchase Agreement No. P14-0062 for a term of (1) year with an option to renew for three (3) additional one (1) year terms; and

b) Job Order No. 1 to Job Order Contract No. 2018-2106-0014 with Hunter Contracting Co. in an amount not to exceed \$530,980 for installation of a new 12” waterline in Vaughn Ave from approximately 200 feet west of Gilbert Road to Elm Street, Project No. RD211.

This item was approved with the Consent Calendar vote.

13. CONTRACT – consider approval of Pre-Construction Services Contract No. 2018-2106-0006 with Haydon Building Corp. in an amount not to exceed \$159,567 for the Heritage District Water Line Project, Project No. WA125, and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

14. CONTRACT – consider approval of:

a) Operations Agreement and License Contract No. 2017-5501-0708 with AZCEND in an amount not to exceed \$22,710 for the facility operations of Page Park Center and authorize the Mayor to execute the required documents; and

b) a Contingency Transfer from the General Fund in the amount of \$9,000.

John Lewis, Gilbert resident, was present and in support of Item 14 but did not wish to speak.

Councilmember Jared Taylor stated he was not in support of the item, believing these services should be handled at the county level. Though he supported the services and the organization, he said the scope and cost would likely be more than expected.

Vice Mayor Victor Petersen expressed concerns regarding an increase to tax dollars and the General Fund. He stated he would be making a motion with an amendment to the language regarding the criteria of services that are not to be provided under this agreement.

Councilmember Eddie Cook requested more discussion regarding the services that will be provided to the facility, the Needs Assessment that was previously determined, and the partnership with Dignity Health.

Community Resources Program Supervisor Melanie Dykstra outlined the agreement, stating AZCEND would be the operator of the facility and it would be their responsibility to reach out to interested partners to provide services. She reported that Dignity Health does have an interest in providing programs such as immunizations, education programs, and dental care at low-cost or no-cost through AZCEND.

There was more discussion regarding the dollar value that may be given as an in-kind donation to the community. Kathleen Dowler, Director of Community Integration at Dignity Health, stated that the Dignity Health Services at the Page Park Center alone would be \$155,348, but the value of the services would be nearly \$400,000. She said based on a survey that included all services, it would provide between \$1,300,000 and \$1,500,000 in cost of value for the services.

Councilmember Scott Anderson spoke regarding the need for control of the specific services that would be provided at the facility. He said that after speaking with staff, he was satisfied that the Town would be filling a need in the community that could not be provided by other groups.

Councilmember Brigitte Peterson said the services to be covered were consistent with the Town's Needs Assessment and priorities. She stated that the Town is currently maintaining the building, and it is time to acknowledge and meet the needs of the community.

Vice Mayor Victor Petersen stated his concern was that projects funded by private partners often require that tax dollars cover costs when the private partners can no longer participate. He said the Town has a legitimate scope and should stay within those boundaries, but he expressed admiration for the partners and their work.

Councilmember Jared Taylor stated he would like to hear about what controls are in place to prevent people from taking advantage and to prevent business owners from being adversely impacted. Kathleen Dowler, Director of Community Integration at Dignity Health, stated that dental services would be aimed for underserved and uninsured children. She stated that Dignity Health and St. Vincent de Paul partner with private dentists and do not compete with them.

Mayor Jenn Daniels spoke in support of the item, stating faith groups and service organizations have expressed the need for continued resources. She thanked staff and community partners who have worked on the project.

Vice Mayor Victor Petersen requested to add the language "encourage, promote, discuss, refer for or recommend any services related to" to the contract.

A MOTION was made by Councilmember Eddie Cook, seconded by Councilmember Scott Anderson, to approve Item 14, adding the language "encourage, promote, discuss, refer for or recommend any services related to". Motion carried 4-2 with Vice Mayor Victor Petersen and Councilmember Jared Taylor casting the dissenting votes.

15. CONTRACT – consider approval of Construction Manager at Risk (CM@R) Pre-Construction Services Contract No.2017-2106-0628 with Haydon Building Corporation in an amount not to exceed \$123,959 for the Gilbert Regional Park - Phase I, Project No. PR031, and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

15A. CHANGE ORDER - consider approval of Change Order No. 1 of Contract No. 2017-2106-0471 with PCL Construction, Inc. increasing the contract amount by \$135,879 for the Reservoir, Pump Station and Well Conversion project, Project No. WA062, and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

16. CONTRACT – consider approval of renewal of Contract No. 2015-1105-0392 with Pacific Office Automation in an amount not to exceed \$216,000 to provide copier, printer, supplies and service, print shop and mail room management and service and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

17. CONTRACT – consider approval of renewal of Contract No. 2016-1105-0028 with Dell in an amount not to exceed \$358,000 for laptops, desktops, and peripherals and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

18. CONTRACT – consider approval of expenditures under Contract No. 2015-1105-0449 with Avaya Inc. in an amount not to exceed \$137,900 for the telephone system maintenance and managed services and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

19. GRANT – consider application of a grant, Contract No. 2018-4106-0097 from the Maricopa Association of Governments' Federal Congestion Mitigation Air Quality (CMAQ) Fund for the purchase of PM-10 Certified Street Sweepers.

This item was approved with the Consent Calendar vote.

20. GRANT – consider application and acceptance of a grant, Contract No. 2018-2106-0084, from Maricopa Association of Governments' Congestion Mitigation Air Quality (CMAQ) and Transportation Alternatives (TA) programs for trail improvements along the Eastern Canal from Ray Road to Pecos Road and authorize the Mayor to execute the required documents.

This item was approved with the Consent Calendar vote.

21. COUNCIL ADMINISTRATION - consider approval of the Council meeting schedule for Calendar Year 2018.

Councilmember Jared Taylor stated he would be unable to attend the proposed Council Regular Meeting on January 18, 2018 and asked that the meeting be changed to January 11, 2018.

A MOTION was made by Councilmember Jared Taylor, seconded by Councilmember Brigitte Peterson, to approve Item 21, amending the January Regular Meeting from January 18, 2018 to January 11, 2018. *Motion carried 6-0.*

22. MINUTES – consider approval of the minutes of the Regular Meeting of August 17, 2017 and Special Meetings August 17, 2017, August 30, 2017 and August 31, 2017.

This item was approved with the Consent Calendar vote.

PUBLIC HEARING

Mayor Jenn Daniels opened the public hearing for Item 23. No one wished to speak and Mayor Jenn Daniels closed the public hearing.

23. GENERAL PLAN GP17-1002/ ZONING Z17-1005– conduct hearing and consider:

a) adoption of a Resolution approving a Minor General Plan amendment GP17-1002 to change the land use classification of approximately 6.45 acres of real property generally located at the southeast corner of East Riggs Road and South 164th Street from Neighborhood Office (NO) land use classification to General Commercial (GC) land use classification. The effect of this amendment will be to change the plan of development for the property to allow commercial development; and

b) approval of the findings and adoption of an Ordinance Z17-1005 to rezone approximately 6.45 acres of real property generally located at the southeast corner of East Riggs Road and South 164th Street from Neighborhood Office (NO) zoning district to General Commercial (GC) zoning district with a Planned Area Development Overlay zoning district to modify landscape setbacks. The effect of the rezoning will be to permit non-residential office/commercial uses.

A MOTION was made by Councilmember Brigitte Peterson, seconded by Councilmember Jared Taylor, to approve public hearing Item 23. *Motion carried 6-0. Ordinance No. 2627 and Resolution No. 3926 were adopted.*

ADMINISTRATIVE ITEMS

24. BOARDS AND COMMISSIONS – consider re-appointment of two staff members Bob Badgett and Rob Duggan to the Firemen’s Pension Relief Board with a term beginning October 2, 2017 and ending October 1, 2021.

A MOTION was made by Vice Mayor Victor Petersen, seconded by Councilmember Jared Taylor, to approve Item 24, reappointing Bob Badgett and Rob Duggan to the Firemen's Pension Relief Board with terms beginning October 2, 2017 and ending October 1, 2021; and to continue Item 25 to the October 19, 2017 meeting. *Motion carried 6-0.*

25. BOARDS AND COMMISSIONS – consider appointment to the AZ Self- Insured Trust Fund for Health Insurance Benefits one regular member with a term beginning October 1, 2017 and ending September 30, 2020.

This item was continued to the October 19, 2017 Council meeting.

26. CODE OF GILBERT - Discussion and direction to staff on related to potential changes to requirements on undergrounding utilities.

Development Services Director Kyle Mieras provided a presentation regarding potential changes to the requirements for undergrounding utility lines. He stated no Council action was being requested; rather the draft revision was being brought forth only to seek Council direction. He briefly summarized the current code and the seven factors that are considered when a waiver is requested. He highlighted the proposed changes including clarified distance to underground, clarified cooperation with utility company, timing of appeal, and the appeal process to Council.

Vice Mayor Victor Petersen stated it would be critical to get some feedback by those who would be affected by the changes. He stated the 30% threshold to be considered for a waiver was too high and there are times when the cost of undergrounding should be avoided or waived for a developer when the cost outweighs the benefit.

Councilmember Jared Taylor asked how the fee in lieu is treated when it is on someone's property. Development Services Director Kyle Mieras stated the applicant would work with the utility company to get a cost which would be collected and set up in an escrow account.

Councilmember Scott Anderson spoke in support of a waiver that could be justified. He suggested that staff look into how Colorado manages in lieu fees.

There was discussion regarding aesthetics, safety, and that the end goal would be for all smaller lines to be undergrounded.

Mayor Jenn Daniels stated she would like there to be a time limit and commitment from the Town if cash in lieu is accepted. She noted there is a serious safety impact to undergrounding lines, and she would like undergrounding lines to be a requirement of new developers. She stated there should be a reasonable formula that could be applied that would not make a project cost-prohibitive, and would allow flexibility in future years to bury lines in large sections of the community.

27. BOARDS, COMMISSIONS, AND COMMITTEES - reports from Council Liaisons for the:

- a) Subcommittee on Board and Commission Application Screening, Interview, and Selection
- b) Other Council Subcommittees
- c) Regional Meetings
- d) Industrial Development Authority
- e) Mayor's Youth Advisory Committee
- f) Parks and Recreation Board
- g) Planning Commission
- h) Redevelopment Commission
- i) Town of Gilbert, AZ Public Facilities MPC
- j) Town of Gilbert, AZ Water Resources MPC
- k) Town of Gilbert, AZ Self-Insured Trust Fund for Health Benefits
- l) Utility Board

Councilmember Eddie Cook stated that after meeting with the Parks and Recreation Board, he would like to request that the architectural designs for the Ocotillo Road Bridge be added as a future agenda item. He announced that there are plans to move forward with a New Year's Eve Celebration in 2018 or 2019, and they may have a sponsor interested in covering the majority of the costs of the celebration

Councilmember Scott Anderson said he met with Redevelopment Commission Staff Liaison Amanda Elliott to discuss reactivating the Arts and Culture Task Force for the design of the Ocotillo Road Bridge and other downtown projects. There was discussion regarding the process needed to reactivate the Arts and Culture Board. Councilmember Jared Taylor offered to assist with helping this process moving forward if needed.

FUTURE MEETINGS

Requested Agenda Items and Projected Meeting Dates

October 19, 2017 - Strategy on Tourism. Contact: Dan Henderson (J. Daniels, V. Petersen, J. Ray)

TBD - Code of Civility. Contact: TBD (E. Cook, J. Ray, J. Daniels)

TBD - Policy regarding staff acceptance of gifts. Contact: TBD (J. Taylor, S. Anderson, B. Peterson)

COMMUNICATIONS

Report from the TOWN MANAGER on current events.

Town Manager Patrick Banger recognized Rod Buchanan, John Kennedy, and the staff at the Freestone Recreation Facility. He stated that the facility just surpassed \$1,000,000 in revenue. He reported that over the last three years they have increased the cost recovery ratio from 71% to 85%, reduced the subsidy from \$330,000 to \$175,000 a year, and increased the membership

conversion rate for residents from 26% to 46%. He also reported that Jolean Fleck and members from the Human Resources Department attended an awards ceremony hosted by Arizona Business Magazine that recognized the Town of Gilbert as one of Arizona's Most Admired Companies. Town of Gilbert was the only government entity recognized at the event.

Report from the COUNCIL on current events.

Councilmember Jared Taylor expressed appreciation to Rod Buchanan and the Parks and Recreation Department for their work during Constitution Week and with other events.

Report from the MAYOR on current events.

Mayor Jenn Daniels reported that the Town of Gilbert is accepting donations throughout the month of September for the United Food Bank. She stated that Gilbert Feeding Families' goal was to raise 172,000 meals.

Mayor Jenn Daniels and Vice Mayor Victor Petersen announced that the iRun4Good event will take place on October 28, 2017. The proceeds will support efforts to stop youth substance abuse. The event will include a 5K Run, a Halloween Costume Fun Run, a resource and provider fair, speakers, games, and food trucks.

Mayor Jenn Daniels announced that Council approved the contract to hire Chris. W. Payne as the Town Attorney and congratulated him. She also thanked Andrew McGuire for his work as the Interim Town Attorney.

RECESS REGULAR MEETING AND RECONVENE IN EXECUTIVE SESSION

A MOTION was made by Councilmember Brigette Peterson, seconded by Councilmember Jared Taylor, to recess the Regular Meeting and reconvene in Executive Session pursuant to:

- a) A.R.S. § 38-431.03(A)(3) for legal advice from the Town Attorney regarding group and sober home regulation.
- b) A.R.S. §38-431.03(A)(3), (4) & (7) for discussion and consultation with designated Town representative and legal advice with Town Attorney on potential lease of real property at the regional park at Chandler Heights Basin. *Motion carried 6-0.*

ADJOURN EXECUTIVE SESSION AND RECONVENE REGULAR MEETING

Mayor Jenn Daniels reconvened the Regular meeting at 9:28 p.m.

ADJOURN

Mayor Jenn Daniels adjourned meeting at 9:28 p.m.

ATTEST:

Jenn Daniels, Mayor

Kris Kingsmore, Deputy Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the special meeting of the Town Council of the Town of Gilbert held on the 21st day of September, 2017. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____.

Kris Kingsmore, Deputy Town Clerk